

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

Lance Q. Ellis Ealy, et al.,

Plaintiffs,

Case No. 3:15-cv-169

v.

Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington

Judge Susan Dlott et al.,

Defendants.

ORDER OVERRULING PLAINTIFFS' OBJECTIONS (DOC. 8) TO THE REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. 7) IN THEIR ENTIRETY; DENYING PLAINTIFFS' MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS (DOC. 2); DISMISSING PLAINTIFFS' COMPLAINT (DOC. 1) AND AMENDED COMPLAINT (DOC. 4) WITHOUT PREJUDICE; AND TERMINATING THE CASE ON THE DOCKET OF THIS COURT.

Pending before the Court is the Magistrate Judge's report and recommendation docketed May 13, 2015. (Doc. 7). Therein, the Magistrate Judge recommends:

1. Plaintiffs' motion for leave to proceed in forma pauperis (Doc. 2) be DENIED;
2. Plaintiffs' Complaint (Doc. 1) and Amended Complaint (Doc. 4) be DISMISSED without prejudice; and,
3. The case be terminated on the docket of this Court.

Plaintiffs have filed an objection to the Report and Recommendations. Doc. 8.

Pursuant to Federal Rule of Civil Procedure 72(b), when a party objects to a report and recommendation, the Court reviews the report and recommendation *de novo*. Because Plaintiff is seeking redress against a governmental office and officers, and because he is proceeding *in forma*

pauperis, the Court must screen the Complaint as required by 28 U.S.C. §§ 1915A and 1915(e)(2)(B). “[T]hese statutes require the court to dismiss any portion of the complaint that (1) fails to state a claim upon which relief may be granted, or (2) is frivolous.” *Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010). To state a claim upon which relief can be granted, “‘a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.’” *Id.* at 471 (quoting *Ashcroft v. Iqbal*, — U.S. —, 129 S.Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009)). A complaint must contain “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed.2d 929 (2007). However, when reviewing a complaint drafted by a *pro se* plaintiff, the Court must “liberally construe [the] pleading and hold the complaint to a less stringent standard than a similar pleading drafted by attorneys.” *Hahn v. Star Bank*, 190 F.3d 708, 715 (6th Cir. 1999).

The Magistrate Judge correctly noted and reasoned that Plaintiff Larry E. Ealy’s pauper privileges have been, and remain, revoked by this Court. *State of Ohio v. Ealy*, No. 09-cv-245, 2009 U.S. Dist. LEXIS 41240 (S.D. Ohio Apr. 24, 2009). As such, Mr. Ealy may only file a new action in the Southern District of Ohio upon attaching to his complaint a copy of the Order issued on April 24, 2009 in *State of Ohio v. Ealy*, the accompanying judgment, proof of paying the entire filing fee, and a motion for leave to file a new action in the Southern District of Ohio. *Id.* Accordingly, his motion for leave to *proceed in forma pauperis* should be denied and his case dismissed without prejudice to refiling upon compliance with the terms of the Court’s injunction. *Id.*

With regard to the other Plaintiffs, the magistrate correctly noted and reasoned that Plaintiffs Lance Q. Ellis Ealy and SCLG, LLC should also be denied leave to proceed *in forma*

pauperis. Plaintiff Lance Q. Ellis Ealy did not sign the complaint, amended complaint, or application to proceed *in forma pauperis*. Plaintiff SCLG, LLC is unable to proceed *in forma pauperis* as “only a natural person may qualify for treatment *in forma pauperis* under § 1915.” *Rowland v. California Men’s Colony*, 506 U.S. 194, 196 (1993).

Plaintiffs do not actually address the substance of the Report and Recommendation in their objections, instead listing a litany of vague assertions of questionable legal significance. Having reviewed Plaintiffs’ objections, the Court finds that the Magistrate Judge's analysis accurately states and applies the law.

Wherefore, Plaintiffs’ motion for leave to proceed in forma pauperis (Doc. 2) is **DENIED**; Plaintiffs’ Complaint (Doc. 1) and Amended Complaint (Doc. 4) are **DISMISSED** without prejudice; and the instant case is terminated on the docket of this Court.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, June 2, 2015.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE